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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Note verbale dated 22 August 2002 from the Permanent Mission of Israel to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

The Permanent Mission of Israel to the United Nations Office and other International Organizations in Geneva presents its compliments to the secretariat of the fifty-ninth session of the Commission on Human Rights and wishes to express its concern regarding the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari (E/CN.4/2003/5/Add.1).

During the fifty-eighth session of the Commission on Human Rights, Israel was informed, in a highly questionable and unethical manner, of a draft report of the Special Rapporteur on adequate housing, Mr. Miloon Kothari. An advance edited copy of the report (E/CN.4/2003/5/Add.1), is now available as a document under agenda item 10 of the fifty-ninth session of the Commission on Human Rights. This report was prepared by the Special Rapporteur as a result of a visit that was apparently made in his private capacity.

Mr. Kothari visited Israel under the pretence of attending a private event to which he was invited by Ben-Gurion University. He filled out a visa application (enclosed herewith)*, dated 26 November 2001, where he clearly indicated that the purpose of his visit to Israel was to attend a conference at Ben-Gurion University.

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* Available for consultation in the files of the secretariat.

In a note dated 3 January 2002, on behalf of the Special Rapporteur, the Permanent Mission of Israel was informed of his intention to visit Israel and the territories of 5 January, two days later. The letter itself was actually received by the Permanent Mission of Israel on 7 January 2002, two days after the Special Rapporteur had already begun his private visit. This certainly did not allow for a "reasonable and sufficient" time for Israel to respond.

To the best of Israel's knowledge, Mr. Kothari's visit was never endorsed by the secretariat as official travel, nor was it organized by the Office of the High Commissioner. Nevertheless, he took an ultra vires initiative, contrary to his mandate, to gather information, which he compiled in a document intended to be an official report. In fact, in a communication sent to the United Nations Truce Supervision Organization at the request of the Special Rapporteur, it was clearly stated that he would "not be on an official visit status".

Israel is deeply disturbed by the behaviour of the Special Rapporteur, which would not be tolerated by any other member or observer State of the Commission on Human Rights. The conduct of the Special Rapporteur is unacceptable. It is contrary to the working methods of the Commission's mechanisms. It raises serious legal and ethical issues, which render circulation and discussion of this report both improper and inadmissible.

The Permanent Mission of Israel requests that this note and its attached documents* be circulated under agenda item 10 to all members of the fifty-ninth session of the Commission on Human Rights.